

## CHAPTER 3

### 3.1.9 Leaves and Absences (Amended April 24, 2007) (Amended June 14, 2011) (Amended April 28, 2015)

#### 3.1.9.1 Personal Leave

The Board of Education of Marshall County will provide to full-time employees, one and one-half (1 1/2) days of personal leave for each month of regular employment. Unused leave shall be accumulative and is transferable within the State of West Virginia. Payment is rendered only when the proper certification of the absence (in accordance with current regulations) is filed at the office of the superintendent.

For the purpose of implementing the provisions of all policy relevant to personal leave, immediate family is defined as including: husband, wife, son, daughter, mother, father, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, and grandchild.

Any day or days utilized for personal leave shall be charged to accumulated leave and paid within the applicable framework of same.

The policies relevant to leave are based, in part, upon the provisions of W.Va. Code: Chapter 18A, Article 4, Section 10.

##### 3.1.9.1.1 Personal Illness

Any full-time employee of Marshall County Schools shall qualify to use any or all leave provided in Policy 3.1.9.1 if the absence is due to personal sickness or accident.

##### 3.1.9.1.2 Family Illness or Death in Family (Revised 09/10/91)

A regular full-time employee who is absent from assigned duties due to accident, sickness, death in the immediate family or life threatening illness of the employee's spouse, parents, or child, or other cause authorized or approved, in advance, by the Board, shall be paid the full salary from his regular budgeted salary appropriations during the period which such employee is absent, but not to exceed the total amount of leave to which such employee is entitled.

##### 3.1.9.1.3 Leave Without Regard to Cause (Adopted 09/10/91)

A regular full-time employee shall be permitted three days of personal leave annually, not to exceed the total amount of leave to which such employee is entitled, which may be taken without regard to the cause for the absence, except that personal leave without cause may not be taken on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, as the case may be: Provided, however, that notice of such leave day shall be given to the employee's principal or immediate supervisor, as the case may be, at least twenty-four hours in advance, except that in the case of sudden and unexpected circumstances, such notice shall be given as soon as reasonably practicable; however, the use of such day may be denied if, at the time notice is given, either fifteen percent of the employees or

three employees, whichever is greater, under the supervision of the principal or immediate supervisor, as the case may be, have previously notified their principal or immediate supervisor of their intention to use that day for such leave: Provided further, that such leave shall not be used in connection with a concerted work stoppage or strike. Where the cause for leave had its origin prior to the beginning of the employment term, the employee shall be paid for time lost after the start of the employment term.

Reference: West Virginia Code 18A-4-10

#### **3.1.9.1.4 Other Leave**

Employees shall not be absent from their assigned duties beyond their approved earned leave days except as authorized by the Superintendent or designated representative. A maximum of five (5) days without pay (Dock) per school year may be approved for vacation purposes, educational trips, or any other absence which may not be covered in this policy. Any staff member who is willfully absent from their duties without an approved leave is subject to disciplinary action, up to and including termination of their employment contract.

#### **3.1.9.2 Absences**

The employee is responsible for calling the Substitute Employee Management System to report an absence, an absence reason, and record any special instructions. The employee is responsible for recording and maintaining the job number assigned by the system for the remainder of the school year.

##### **3.1.9.2.1 Non-School Functions (Attendance at) Community, Church, and Civic**

The Board of Education wishes to encourage its employees to participate in and become leaders in church functions and civic community organizations.

Those desiring to be excused from duty for attendance at non-school functions, without pay, shall make application to the superintendent. This is limited to five (5) consecutive school days.

The decision on absences of five (5) days or less shall be that of the superintendent. For absences exceeding five (5) days, the employee shall make application to the superintendent for approval by the Board of Education at a time sufficient to be considered at a regular meeting PRIOR to the dates for which request is made.

##### **Others**

Requests for all other personal absences may be considered individually, on their own merit, by the superintendent and then referred to the Board of Education if deemed necessary. The procedure for making these personal requests shall be by the same method described in Paragraph Two (2), Section 3.1.9.2.1.

### **3.1.9.2.2 Absence Related to Political Office**

Permission to be absent from duties to perform any service related to an elective or appointed political office shall be categorized as, and treated in accordance with Policy 3.1.9.2.1.

If and when any employee is granted such permission, it shall be with the loss of time. In the cases of such personnel whose duties are vital to school operations and whose duties cannot be deferred (such as teachers, bus operators, etc.), the individual involved shall be replaced with an approved substitute (not regularly employed). One half day shall constitute the minimum for such absence and replacement. (Adapted from Board Minutes, April 16, 1968.)

### **3.1.9.2.3 Absence Related to Jury Duty (Revised 12/13/94)**

Any employee required to serve on any jury shall be relieved of the usually assigned duty for the period necessitated by such service and shall be compensated by the Board of Education in an amount equal to the difference between the jury fee and the regular salary of the involved employee.

(W.Va. Code, Chapter 18A, Article 5, Section 3)

### **3.1.9.2.4 Absence Related to Court Summons (Revised 12/13/94)**

Any employee summoned to appear before the Court or Grand Jury, upon the furnishing of evidence of same, shall be paid his/her regular salary for the period of absence, not to exceed two days in any one fiscal year. Any day or days utilized for the reason cited in this section shall be charged to the accumulated personal leave and paid within the applicable framework.

### **3.1.9.3 Leave of Absence (Adopted 6/25/80) (Revised 10/15/86)**

Upon written request, the Board of Education may grant a leave of absence to an employee, **holding tenure status**, for not more than one (1) year and not less than one (1) semester, or the remaining portion thereof.

In accordance with West Virginia Code 18A-2-2a, any employee who is returning from an approved leave of absence that extended for a period of less than one year maintains the right to be restored to the same assignment of position or duties held prior to the approved leave of absence. Such employee shall retain all seniority, rights and privileges which were accrued at the time of the approved leave of absence, and shall have all rights and privileges generally accorded employees.

A leave of absence may be granted for the following reasons:

1. Advanced study and graduate work. Leave may be granted provided the employee requesting said leave pursues a minimum of twelve (12) semester hours (or nine (9) semester hours when employed as a graduate assistant) of college training per semester of granted leave. The work pursued must be relevant to education as a career. At the beginning of each semester for which leave is granted, the individual granted leave must provide a copy of proof of payment for registration within the required number of course hours.

Completed course work must be verified each semester by submission of an official transcript to the Superintendent of Marshall County Schools. During the duration of the granted leave, failure on the part of the individual on leave to provide either the require proof of payment for registration or the required transcript will nullify the leave in question, render the individual in neglect of duty, and result in termination of employment.

2. Prolonged illness. When an employee becomes ill or injured and sick leave has been exhausted, and the employee has not applied for a leave of absence, the Office of Personnel shall notify the employee by certified mail of placement on medical leave without pay. Employees will be responsible for paying their own West Virginia PEIA insurance premium once the employee no longer receives payment from Marshall County Schools. Within two weeks from the date of notification, the employee shall contact the Office of Personnel, in writing, specifying a date when he or she will be available to return to work. Prior to returning to work on specified date, written permission from the attending physician shall be submitted to the Office of Personnel. The Office of Personnel will contact the principal or immediate supervisor to authorize the employee's return to work.
3. For any extended medical leave without pay, the Verification for Sick Leave Physician Certificate shall be submitted to the Office of Personnel every thirty (30) calendar days. Forms are available to employees in the immediate supervisor's office and the Office of Personnel.
4. A medical leave of absence without pay shall be limited to one year. Should an employee be unable to return to work after one year, their employment with Marshall County Schools will be reviewed with the result being possible termination. An employee must return to work for a minimum of one full year employment term before being eligible to take any kind of additional medical leave of absence without pay. An employee on a leave of absence for other than medical reasons shall not be construed to be the equivalent of returning to work for a minimum of one full year employment term.
5. Employees who are members of the National Guard or any military reserve unit of the United States Armed Services, shall be entitled to leave of absence from their respective offices or employment pursuant to W.Va. Code 15-IF-1 (2001). Additionally, applicable provisions of 38 U.S. Code 4301-4333 (1994), the Uniformed Services Employment and Reemployment Rights Act, and any other federal or state statutes governing benefits to be provided to Uniformed Services members shall apply.

#### **3.1.9.4 Leaves of Absence for Pregnancy, Childbirth, or Adoptive or Infant Bonding (Adopted 09/10/91)**

An employee shall notify the county board at least ten working days prior to beginning a leave of absence. The county board shall approve such leave of absence for any employee who requests an extended leave of absence without pay for any period of time not exceeding one year for the purpose of pregnancy,

childbirth or adoptive or infant bonding. An employee shall not be required to use accumulated annual leave or sick leave prior to taking an extended leave of absence.

Reference: West Virginia Code 18A-2-2a(b)

### **3.1.9.5 Professional Meetings, Conferences**

The Board of Education wishes to encourage its employees to participate in and become leaders in their professional organizations.

#### **3.1.9.5.1 Teacher or Principal Initiated Request (Revised 10/13/92)**

Employees desiring to be excused from duty for attendance at professional meetings, conferences, and other educationally related functions must first make application to their immediate supervisor. All such requests must be made in writing. Supervisors and Principals who approve these requests must sign and forward them to the Superintendent. The Superintendent must receive requests at least ten days prior to the next regular board meeting, prior to the date or dates for which the request is made.

#### **3.1.9.5.2 Superintendent or Board Initiated Request**

A request for attendance of teacher or principal at professional or educational meetings initiated by the superintendent or by the board of education in the interest of the school system or the program shall be considered an integral part of employment, with time allowed and all necessary expenses born by the board.

(Adapted from Board Minutes, April 16, 1968)

#### **3.1.9.5.3 Central Administrative/ Supervisory Staff**

All central administrative or supervisory staff whose employment either stipulates or is understood through precedent to include all necessary expenses needs only the approval of the superintendent, excepting wherein such participation or attendance at meetings, conferences, etc., exceeds five (5) employment days.

Only such meetings and conferences that are employment related are covered by this policy and others not herein designated shall be handled in accordance with existing practice or policy elsewhere outlined in this policy document.

### **3.1.9.6 Family Leave (Adopted 09/10/91)**

A regular full-time employee who has worked for at least twelve (12) consecutive weeks for Marshall County Board of Education shall be entitled to a total of twelve-weeks of unpaid family leave, following the exhaustion of all his or her annual and personal leave, during any twelve month period for the following reasons:

1. Because of the birth of a son or daughter of the employee. If such leave is foreseeable, the employee shall provide the Board with two (2) weeks written notice of such expected birth.
2. Because of the placement of a son or daughter with the employee for

adoption. If such leave is foreseeable, the employee shall provide the Board with two (2) weeks written notice.

3. In order to care for the employee's son, daughter, spouse, parent or dependent who has a serious health condition. Such leave may be taken intermittently when medically necessary. If such leave is foreseeable because of planned medical treatment or supervision, the employee:
  - a) Shall make a reasonable effort to schedule the treatment or supervision so as not to unduly disrupt the operations of the Board, subject to the approval of the health care provider of the employee's son, daughter, parent or dependent; and
  - b) Shall provide the Board with two (2) weeks written notice of the treatment or supervision.

An employee may take family leave on a part-time basis and on a part-time leave schedule, but the period during which the number of work weeks of leave may be taken may not exceed twelve consecutive months. Such leave shall be scheduled so as not to unduly disrupt the operations of the Board as determined by the Superintendent of Schools.

If an employee requests family leave to care for a family member with a serious health condition, the employee shall furnish the Board with certification by the health care provider of the health condition. The certification shall be sufficient if it contains:

1. Verification that the child, dependent, parent or spouse has a serious health condition,
2. The date the serious health condition commenced and its probable duration; and
3. The medical facts regarding the serious health condition.

The position held by the employee immediately before the leave is commenced shall be held open for a period not to exceed the twelve-week period of the parental leave and the employee shall be returned to that position: Provided, That the Board may assign a temporary employee or temporary employees to fill said position for the period of the family leave.

The Superintendent shall cause to be posted, in one or more conspicuous places at each work location where notices to employees are customarily posted, a notice in a form approved by the West Virginia Department of Labor setting forth an employee's rights under the West Virginia Parental Leave Act.

Reference: West Virginia Code 21-5D-1 et se

### **3.1.9.7 Return to Work Program (Adopted April 28, 2015)**

It is the policy of the Marshall County Board of Education to provide our workers

who have become ill or injured on the job with the best possible recovery program so that they can return to work with minimal emotional and financial disruption in their lives. The Board endorses a Return to Work (RTW) program that provides a unified effort to return ill or injured workers to their regular assignments as soon as possible. The goal of this policy is to increase productivity and our employee's sense of security, while reducing premium costs and temporary disability payments. The employee's health and safety shall be a priority in the implementation of a return to work plan.

In order to return ill or injured workers to the job as soon as possible, the Board will attempt to provide work tasks or hours tailored to the physical capabilities of employees who are injured on the job. Employees will perform only those job functions that the medical provider has agreed can be safely performed during the recovery process. The first priority is to return the employee to the same job, if medically advisable. Building on existing work experience and working relationships, it may be possible to modify a job to accommodate an employee's work ability. Job or work site modifications may include such things as altering the way duties are performed, physical changes in the work station, or specialized tools or adaptive equipment. All alternative and modified job assignments will be structured to meet the physical capabilities and therapy needs of the injured worker. An Alternative Duty Job Bank Worksheet (Appendix A) completed by directors and department supervisors will be utilized to ensure that an employee recovering from an injury can perform and be based on restrictions set by the preferred physician.

The RTW program is limited to employees who are undergoing active medical and rehabilitative treatment and who are confronting temporary work restrictions which are projected to end upon completion of a defined course of treatment. An employee's participation in the program will not exceed a period of six months. Employees with permanent or indefinite work restrictions will be evaluated to determine if they can perform, with or without reasonable accommodation, the essential functions of their regular position or a vacant position for which they are qualified for. Employees who cannot perform the essential functions of the job or who pose an immediate threat of injury to themselves or others will not be retained in the program.

Participants involved in the RTW program are identified below, along with their respective responsibilities. Success of the Board's RTW program depends on all employees, including administrators, teachers and service personnel understanding and adhering to the roles and responsibilities outlined in this policy.

#### Employer

- a. Provide all employees with orientation/training on return to work policies and procedures.
- b. Ensure that return to work policies and procedures are followed.
- c. Report all workers' compensation claims in a timely manner.
- d. Inform medical providers of the Board's RTW program.
- e. Follow up with medical providers and employees regarding prescribed therapy and recovery process. (Appendix B)

Immediate Supervisor

- a. Understand and adhere to return to work policies and procedures.
- b. Ensure that employees receive a thorough RTW program orientation and that they understand return to work policies and procedures.
- c. Report and file accident/injury reports as directed by the Accident Reporting Policy
- d. Forward medical status and medical documentation for injured employee to the Personnel Department when received.

Ill or Injured Employee

- a. Report all injuries, no matter how slight, to your immediate supervisor in accordance with the Accident Reporting Policy
- b. Inform your medical provider of the Board's Return to Work program.
- c. Return to work following medical treatment and report to your immediate supervisor. If it's not medically possible to return to work, report to your supervisor immediately following your medical evaluation. Report your medical status and provide documentation to your supervisor within 24 hours following any related medical evaluations.
- d. Report to work in your job assignment with accommodation if necessary. Understand that refusal of an offer of return to work with accommodation will jeopardize your workers' compensation and other benefits.
- e. Follow your medical provider's recommendation with respect to established work restrictions, limitations, therapies, and physical capacities on and off the job.
- f. Return to your normal work assignment as soon as your medical provider deems it is safe.

It is essential that Board's school administrators and supervisors understand and follow through with practice and enforcement of the Return to Work policies and procedures. They must understand and fulfill their roles and responsibilities in implementation and maintenance of the program. An employee who violates any provision of the Board's Return to Work Policy, or any regulation or procedure related thereto, shall be subject to the following incremental disciplinary steps:

1. Documented conference with immediate supervisor
2. Formal written reprimand from immediate supervisor
3. Placement on a 30-day improvement plan\*



4. Five-day suspension without pay by the Superintendent and approval of the Marshall County Board of Education.
5. Dismissal

\*Improvement plan procedure will follow West Virginia Board of Education Policy 5310 for Professional Personnel and West Virginia Board of Education Policy 5314 for Service Personnel.